# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF WEST VIRGINIA MARTINSBURG DIVISION

AUTOMATED MERCHANDISING	§
SYSTEMS, INC., a Delaware	§
Corporation,	§
	<b>§</b>
Plaintiff,	§ CIVIL ACTION NO. 3:03-CV-88 (lead
	§ case); (consolidated with 3:04-CV-48;
<b>v.</b>	§ 3:04-CV-75; 3:04-CV-80; &
	§ 3:08-CV-97-JPB)
CRANE CO., a Delaware corporation, and	§
SEAGA MANUFACTURING, INC., an	§
Illinois corporation,	§
	§
Defendants.	<b>§</b>
Defendants.	§

# CRANE CO.'S MOTION TO EXCLUDE OPINION TESTIMONY OF MICHELE M. RILEY

Pursuant to Federal Rule of Evidence 702, Defendant Crane Co. ("Crane") moves to exclude the opinion testimony of Michele M. Riley ("Riley") on damages.

Riley's damages analysis is neither reliable nor helpful. Instead, Riley's testimony is based on unreliable assumptions and flawed methodologies. Riley not only employs a flawed methodology in reaching her reasonable royalty determination, she also fails to adequately account for numerous key factors in her lost profits analysis, significantly overstating both damages calculations and rendering them unreliable and unhelpful.

For these reasons, and for those set forth in Crane's accompanying Memorandum in Support of this Motion to Exclude, the Court should strike Riley's testimony on damages in this case and grant Crane such other relief as is just and proper.

Dated: January 27, 2012 Respectfully submitted,

### /s/ Michael T. Smith

Michael T. Smith

West Virginia State Bar No. 8701

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# ATTORNEYS FOR DEFENDANT CRANE CO.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been served upon all counsel of record via CM/ECF, in accordance with the Federal Rules of Civil Procedure, on January 27, 2012.

/s/ Michael T. Smith

Michael T. Smith